

109TH CONGRESS
1ST SESSION

H. R. 1077

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2005

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To improve the access of investors to regulatory records
with respect to securities brokers, dealers, and invest-
ment advisers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Realtime Investor Pro-
3 tection Act”.

4 **SEC. 2. CONSTITUTIONAL AUTHORITY.**

5 The constitutional authority on which this Act rests
6 is the power of Congress to regulate commerce as enumer-
7 ated in article I, section 8 of the United States Constitu-
8 tion.

9 **SEC. 3. METHOD OF MAINTAINING BROKER/DEALER REG-**
10 **ISTRATION, DISCIPLINARY, AND OTHER**
11 **DATA.**

12 Subsection (i) of section 15A of the Securities Ex-
13 change Act of 1934 (15 U.S.C. 78o–3(i)) is amended to
14 read as follows:

15 “(i) OBLIGATION TO MAINTAIN REGISTRATION, DIS-
16 CIPLINARY, AND OTHER DATA.—

17 “(1) MAINTENANCE OF SYSTEM TO RESPOND
18 TO INQUIRIES.—A registered securities association
19 shall—

20 “(A) establish and maintain a system for
21 collecting and retaining registration informa-
22 tion;

23 “(B) establish and maintain a toll-free
24 telephone listing, and a readily accessible elec-
25 tronic or other process, to receive and promptly
26 respond to inquiries regarding—

1 “(i) registration information on its
2 members and their associated persons; and

3 “(ii) registration information on the
4 members and their associated persons of
5 any registered national securities exchange
6 that uses the system described in subpara-
7 graph (A) for the registration of its mem-
8 bers and their associated persons; and

9 “(C) adopt rules governing the process for
10 making inquiries and the type, scope, and pres-
11 entation of information to be provided in re-
12 sponse to such inquiries in consultation with
13 any registered national securities exchange pro-
14 viding information pursuant to subparagraph
15 (B)(ii).

16 “(2) RECOVERY OF COSTS.—Such an associa-
17 tion may charge persons making inquiries, other
18 than individual investors, reasonable fees for re-
19 sponses to such inquiries.

20 “(3) PROCESS FOR DISPUTED INFORMATION.—
21 Such an association shall adopt rules establishing an
22 administrative process for disputing the accuracy of
23 information provided in response to inquiries under
24 this subsection in consultation with any registered

1 national securities exchange providing information
 2 pursuant to paragraph (1)(B)(ii).

3 “(4) LIMITATION OF LIABILITY.—Such an asso-
 4 ciation, or exchange reporting information to such
 5 an association, shall not have any liability to any
 6 person for any actions taken or omitted in good
 7 faith under this subsection.

8 “(5) DEFINITION.—For purposes of this sub-
 9 section, the term ‘registration information’ means
 10 the information reported in connection with the reg-
 11 istration or licensing of brokers and dealers and
 12 their associated persons, including disciplinary ac-
 13 tions, regulatory, judicial, and arbitration pro-
 14 ceedings, and other information required by law, or
 15 exchange or association rule, and the source and sta-
 16 tus of such information.”.

17 **SEC. 4. FILING DEPOSITORIES FOR INVESTMENT ADVIS-**
 18 **ERS.**

19 (a) AMENDMENT.—Section 204 of the Investment
 20 Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

21 (1) by striking “Every investment” and insert-
 22 ing the following:

23 “(a) IN GENERAL.—Every investment”; and

24 (2) by adding at the end the following:

1 “(b) FILING DEPOSITORIES.—The Commission may,
2 by rule, require an investment adviser—

3 “(1) to file with the Commission any fee, appli-
4 cation, report, or notice required to be filed by this
5 title or the rules issued under this title through any
6 entity designated by the Commission for that pur-
7 pose; and

8 “(2) to pay the reasonable costs associated with
9 such filing and the establishment and maintenance
10 of the systems required by subsection (c).

11 “(c) ACCESS TO DISCIPLINARY AND OTHER INFOR-
12 MATION.—

13 “(1) MAINTENANCE OF SYSTEM TO RESPOND
14 TO INQUIRIES.—The Commission shall require the
15 entity designated by the Commission under sub-
16 section (b)(1) to establish and maintain a toll-free
17 telephone listing, or a readily accessible electronic or
18 other process, to receive and promptly respond to in-
19 quires regarding information (including disciplinary
20 actions, regulatory, judicial, and arbitration pro-
21 ceedings, and other information required by law or
22 rule to be reported) involving investment advisers
23 and persons associated with investment advisers.
24 Such information shall include information on an in-
25 vestment adviser (and the persons associated with

1 that adviser) whether the investment adviser is reg-
2 istered with the Commission under section 203 or
3 regulated solely by a State as described in section
4 203A.

5 “(2) RECOVERY OF COSTS.—An entity des-
6 ignated by the Commission under subsection (b)(1)
7 may charge persons making inquiries, other than in-
8 dividual investors, reasonable fees for responses to
9 inquiries made under paragraph (1).

10 “(3) LIMITATION ON LIABILITY.—An entity
11 designated by the Commission under subsection
12 (b)(1) shall not have any liability to any person for
13 any actions taken or omitted in good faith under
14 this subsection.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 203A of the Investment Advisers
17 Act of 1940 (15 U.S.C. 80b–3a) is amended—

18 (A) by striking subsection (d); and

19 (B) by redesignating subsection (e) as sub-
20 section (d).

21 (2) Section 306 of the National Securities Mar-
22 kets Improvement Act of 1996 (15 U.S.C. 80b–10,

1 note; Public Law 104–290; 110 Stat. 3439) is re-

2 pealed.

Passed the House of Representatives April 6, 2005.

Attest: **JEFF TRANDAHL,**
Clerk.